IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.50231-M of 2006
Date of Decision:- 01.05.2007

Dr.Varinder Singh Bajwa ....Petitioner(s)

through
Mr.H.P.S.Ghuman, Advocate

vs.

State of Punjab & anr. ....Respondent(s)

through
Mr.K.S.Pannu, AAG, Punjab.

Mr.S.P.Soi, Advocate for No.2.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J.

The prayer in this petition is for quashing of the proceedings initiated against the petitioner under Section 182, 211 IPC vide calendra dated 23.2.2006 as well as all the consequential proceedings arising therefrom.

The petitioner made a written complaint on the basis of which F.I.R.No.296 dated 24.8.2002 under Sections 364, 341, 506, 511, 147 IPC was registered at Police Station Civil Lines, Patiala. The allegations of abduction and/or causing injuries to him at the hands of the accused persons, were found to be false after investigation. Consequently, a cancellation report was recommended on 29.8.2002. The said report was

finally prepared on 13.9.2002 and presented to the Court. The learned trial Court, however, was not satisfied with the investigation and while rejecting the said report, it directed the police to re-investigate the case.

After re-investigation, the police again presented a cancellation report on 26.3.2003 which was finally accepted by the learned Judicial Magistrate, Ist Class Patiala, vide order dated 20.7.2005.

It was thereafter that on the basis of an application dated 18.1.2006 made by respondent No.2 against whom the petitioner had made allegations, that the impugned proceedings under Section 182, 211 IPC have been initiated against the petitioner.

While seeking quashing of the aforesaid proceedings, it is contended by learned counsel for the petitioner that since the cancellation report was prepared on 13.9.2002, the proceedings under Section 182 IPC could be initiated, within a period of three years only and on expiry of the said period of limitation, no cognizance thereof can be taken in view of Section 468 Cr.P.C. Reliance has been placed upon a judgment of this Court in the case of **Harbhajan Singh Bajwa** vs. **Senior Superintendent of Police, Patiala and another** , 2000 Criminal Law Journal 3297 (P&H).

It is also contended that the petitioner has already filed a criminal complaint under Sections 364/341/506/511/149 IPC (Annexure P-4) in which preliminary evidence has also been led by him though the alleged accused persons have not been summoned so far.

After hearing learned counsel for the parties and on perusal of the material on record, I do not find any merit in this petition.

It may be true that the cancellation report was prepared on 13.9.2002, however, as per the petitioner's own case, the said report was

not accepted by the Court and a direction to re-investigate the case was issued. Thereafter the police again submitted the cancellation report on 26.3.2003 which was finally accepted by the Court on 20.7.2005.

The proceedings initiated against the petitioner are under Section 182 and 211 IPC. Even if it is taken that the allegations made against the petitioner fall within the first part of Section 211, the prescribed punishment is imprisonment for a period of two years. In this view of the matter, the case, for the purpose of limitation period, falls within Section 468(2)(c) Cr.P.C. The Court is, thus, competent to take cognizance within a period of three years.

As noticed earlier, the cancellation report was presented by the police on 26.3.2003 and undisputedly the proceedings under Section 182 , 211 IPC have been initiated against the petitioner within a period of three years from the said date. No advantage can be taken of the earlier cancellation report dated 13.9.2002 for the purpose of limitation as the said report stood rejected by the Court.

Since the petitioner filed a protest petition against the cancellation report dated 26.3.2003 and his objections were turned down by the Court while accepting the cancellation report vide order dated 20.7.2005 only, the cancellation report attained finality on that very date, therefore, also Section 468 Cr.P.C. does not come to the petitioner's rescue.

For the reasons afore-stated, it cannot be said that the proceedings initiated against the petitioner are barred by limitation.

As regard to the second plea that the petitioner has already filed a criminal complaint, needless to say that no summoning order has been passed by the Court in the said complaint, therefore, it is too pre-mature to

say that the allegations made by the petitioner in the said complaint have been even, *prima facie,* believed by the Court.

For the reasons afore-stated, I do not find any merit in this revision petition which is accordingly dismissed.

May 01, 2007 **(SURYA KANT)**
poonam **JUDGE**